

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/774,799

**Applicant(s)**

LORENZ, PERRY SCOTT

**Examiner**

KHAREEM E. ALMO

**Art Unit**

2816

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-26.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) \_\_\_\_\_.  
13. ☒ Other: The supplemental Advisory Action does not change the merits of the action and is merely to correct the time period for reply.

/QUAN TRA/  
Primary Examiner, Art Unit 2816

Continuation of 11, does NOT place the application in condition for allowance because: With respect to argument Azimi fails to disclose "a comparator circuit that is arranged to provide a trigger signal by comparing a reference signal to a temperature sensor signal" the signal input can be any signal in Azimi and fit the claim because it merely has to be arranged to provide a trigger signal by comparing a reference signal to a temperature sensor signal. The signal at 24 is a temperature sensor signal because in any circuit the temperature varies. The argument of substantially independent of temperature is not persuasive because broadly interpreted substantially independent of temperature can be dependent of temperature depending on the characteristic of what is deemed as substantial and what is not. Thermal expansion can make the band gap depend on temperature. With respect to applicant's argument against claim 23 substantially independent of temperature can be interpreted as dependent of temperature. With respect to claim 25 the Examiner contends the general conditions of claim 25 are disclosed because the structure is present and the comparator circuit does perform a temperature comparison because the temperature is inherent in the circulation of resistance i.e.  $V=IR$  and each resistance has a temperature coefficient of resistance wherein the measure of the way a resistor varies with increasing or decreasing temperature is defined as  $TCR = \frac{R2-R1}{R1(T2-T1)} \times 10^{-6}$  wherein TCR is temperature coefficient of resistance, R1 is resistance at room or reference temperature, R2 is resistance at operating ambient temperature, T1 is room temperature and T2 is operating ambient temperature. With respect to claim 13 and 20 the disclosure of activating hysteresis if a temperature sensing condition has occurred the Examiner points out the bandgap voltage sensed via the comparator senses the temperature condition and the hysteresis is activated based on that condition via feedback loop through 10 and 34. With respect to claim 26, this is met because anything that gains heat is considered to be a heater. With respect to applicant's arguments concerning limit resistance always varies with temperature. Whether the variance is "significant" is not at issue even a slight change can be interpreted as a variance in temperature. With respect to Vout2 being made available via AND gate AND45 the examiner contends that since AND45 controls the operation of OP20 Vout2 is made available through AND45. With respect to claim 21 any level is a predetermined level, with respect to 22 the temperature sensor is always indicative of a temperature, rather it is detectable or insignificant is not at issue, with respect to 24 Bth is associated with temperature because it is associated with the resistance. With respect to 13 and 20, whether the temperature variation is significant or insignificant is dependent on perspective and broadly interpreted it does vary with respect to temperature. With respect to ensuring the hysteresis because no signal passes to the hysteresis circuit until the power up the condition is met. With respect to claim 26, anything that gains heat or gives off heat can be broadly construed as a heater therefore the claim is met.